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## MEMORIAL ADDRESS.

### THE LIFE AND SERVICES OF JOSEPH GILLESPIE.

By E. B. WASHBURN.

READ BEFORE THE ILLINOIS STATE BAR ASSOCIATION, AT ITS ANNUAL MEETING, HELD AT SPRINGFIELD, JANUARY 13TH AND 14TH, 1885.

Since Abraham Lincoln died, the demise of no citizen of Illinois has carried sorrow to more hearts than the recent death of Judge Joseph Gillespie, at his residence in Edwardsville, the morning of the 7th inst. Passing away at the ripe old age of nearly 76 years, Judge Gillespie had spent almost his entire life in the Territory and State of Illinois. He was, therefore, bone of our bone and flesh of our flesh. He was a part of our history. No man among us had such a varied and extended knowledge of the personal and political history of the State as he had. Interested in all matters pertaining to the Territory and State of Illinois from his boyhood, intelligent, active, of genial and captivating manners, and with a rare taste for public events, he was a living encyclopaedia. No man in Illinois ever knew so many of our public men as he did, and was so familiar with their personal and political careers. Practicing law in many of the older counties, he was brought into contact with judges, lawyers, suitors, and politicians. Frank, open-hearted and cordial, he everywhere made friends and acquaintances whose confidence once obtained never weakened. He was an old school lawyer, who had deeply studied the principles of common law. He was just to the profession and his clients, and acquired an honorable success at the bar. Becoming a judge he won a reputation for ability, honesty and impartiality, which is one of his titles to public respect and gratitude. I had known him intimately and well for more than forty years, and the remembrance of all his friendship and good will is a most precious souvenir. Interested in early Illinois and our public men, his conversation had an interest for me which I cannot express.

His personal reminiscences in the earlier history of the State, and of his contemporaries, filled me with thankfulness that I had known such a man. As a conversationalist he was almost unrivaled. He had a quaint and genial humor, and a fund of anecdote to embellish and illustrate his experiences and his knowledge of individuals. A sketch I wrote, some few years ago, of one of our earliest and most distinguished governors, Edward Coles, I dedicated to him as a slight token of the profound respect and high esteem in which I held him, and designating him as "one of the connecting links between the earlier and the later Illinois, and who, in his career as a lawyer, a magistrate and a citizen, had illustrated the history of our State for more than half a century." It is to me now a matter of the most poignant regret to feel that I did not know him still better than I have known him, and not to have drawn still more from his inexhaustible resources of historic knowledge. It is to be hoped that his reminiscences have been put in some form to be made available to the public.

The loss of such a man to the State and to the people is irreparable. A great light which spread its rays for a lifetime has been extinguished. Among the early settlers of the State, with whom Judge Gillespie had the most cordial and friendly relations, was our first Lieutenant-Governor, Pierre Menard, and hence it was that when Mr. Charles P. Choteau, of St. Louis, determined to erect a monument to that man whose memory is so dear to Illinoisans, he selected Judge Gillespie as a member of the committee to carry out his purpose. That led to a visit to Kaskaskia in the last days of September, 1883. That old town, which at the present time has hardly an existence, but which for a century was a seat of empire, and which has a history of more than romantic interest, was where Gov. Menard had lived for fifty years and where he died. An excursion to that interesting locality was proposed by Mr. William K. Ackerman, President of the Illinois Central Railroad, and a prominent member of the Chicago Historical Society, whose interest in Illinois has not been obscured by the exactions of a business life.

He invited the President of the Chicago Historical Society—the Hon. Isaac N. Arnold, who paid the last great debt of nature in April, 1884—Judge Gillespie and myself to accompany him. Passing a most interesting day at Kaskaskia the first day of October, 1883, Judge Gillespie returned with us to Chicago, and I was honored by having him as my guest; and when he left us for his home the following day, after a most delightful visit, I bade him, what turned out to be, alas, a final adieu.

In March, 1880, Judge Gillespie read a paper before the Chicago Historical Society, entitled, "Recollections of Early Illinois and Her Noted Men," and it is safe to say, in a historical point of view, there has never been a more valuable and interesting paper read before that society, and now that the author has departed there is lent to it an additional interest. In his younger days, in 1828, when the tide of emigration was setting toward the "Fevre river lead mines," young Gillespie joined the throng which was seeking that new Eldorado. Becoming myself a resident of the lead mines a few years afterwards, he was never happier than when recounting to me his experiences in the mining region. It was my hope and expectation that I should again meet Judge Gillespie at the meeting of the Bar Association, and it was only two or three days before his death that I wrote him a note, telling him that I intended to be at Springfield, and trusted that I should have the happiness of meeting him there. But the letter reached him too late; the hand of death was already upon him, and two days later he expired. He has gone; a noble and generous heart has ceased to beat. It is only left to us to guard in our heart of hearts the memory of one to whom we were allied by so many ties of friendship, respect and affection.

## MEMORIAL ADDRESS.

### THE LIFE AND SERVICES OF JOHN TODD STUART.

BY DAVID DAVIS.

READ BEFORE THE ILLINOIS STATE BAR ASSOCIATION, AT ITS ANNUAL MEETING,  
HELD AT SPRINGFIELD, JANUARY 12TH AND 13TH, 1886.

The death roll of 1885 is remarkable for the number of eminent men who have died, and it recalls the old truth, that the rich man in his palace is subject to the same inexorable law as the laborer in his cabin. The great men of the earth must die like the rest of the world, and the splendor surrounding their lives, and the display attending their deaths, only serves to make the termination of their existence on earth seem sadder by contrast.

John Todd Stuart, who died in Springfield on the 28th day of last November, is entitled to be classed among the distinguished dead of the past year.

It is true, his fame is confined within State lines; but had he chosen to continue in public life, his influence would have been felt throughout the Nation. He was a man of marked individuality, and of high qualities of mind and character.

The greater part of his long life was devoted to the profession of the law, and it is lamentably true, that the great lawyer is soon forgotten by the general public, while the mere politician, who of necessity is a demagogue, is remembered. The man who seeks posthumous reputation, cannot acquire it by the labors of a life time in practicing law. To be at the head of the American Bar is, in my judgment, a higher honor than any political preferment.

Benjamin R. Curtis, of Boston, confessedly occupied that position, yet his death created no sensation, and his fame will rest only in the memory of lawyers. One of the leading lawyers of St. Louis told me that he was in Denver when Judge Curtis died. On his return home, a month after this event, he found no steps had been taken by the bar concerning it, and that some of his brethren did not even know it had occurred.

It is a common saying "that nothing but good should be spoken of the dead," and this rule of action is usually observed in memorial tributes. Without stopping to consider whether the rule is right or wrong, it is enough to say that there is no occasion to invoke it in the case of Mr. Stuart, whose life was stainless.

He was a christian gentleman of the old school, religious by nature and education, pure in heart and upright in conduct. His soul was too lofty to harbor malice, envy or uncharitableness.

The golden rule was his rule of action. He wronged no man and relieved distress wherever he found it. He was a peace-maker, and fomented no litigation; on the contrary, he settled law suits whenever practicable, and was assiduous in his efforts to do so.

He was a generous man. Allow me to relate one instance of his generosity. In the early days of Bloomington, the Society of the First Presbyterian Church was desirous of erecting a suitable place for worship on a lot owned by Mr. Stuart, but were too poor to purchase it. On ascertaining these facts, he donated the lot to the society. The character of this gift will be understood when I state that the lot was worth five hundred dollars, was the only piece of property owned by Mr. Stuart in the place, and that his pecuniary means at the time were quite limited.

He was a brave man. While solicitous to give offense to no one, he allowed no person to infringe on his rights, either as a lawyer or as a man,—charming in the social circle, and devoted to his family and their comfort. His friendship was strong and enduring, and I can testify, was equal to all demands made upon it.

Besides, he was an honest and conscientious man, and discharged with fidelity every duty which the opportunities of life afforded him.

Uniformly courteous in his intercourse with his fellow men, of polished manners and commanding presence, he impressed all with whom he associated as one of nature's noblemen.

In portraying the life of such a man, there is no need to summon to our aid any artificial opinion which is applicable to those who have not lived a uniformly good life.

Mr. Stuart's kindness to young men entering the profession was proverbial. Two of the older members of the bar recently told me of the strengthening effect upon them of his words of encouragement, and I can bear similar testimony.

I first met Mr. Stuart in the winter of 1835-6, at Pekin, in Tazewell county, where I had located a few months before as a practicing lawyer. The first case of any importance which came to my hands, was in the Probate Court. The bondsmen of an administrator had petitioned for his removal on serious charges. I was employed to resist the application, while Mr. Stuart was engaged to prosecute it. For reasons not necessary to mention, the case enlisted exceptional interest. I was naturally solicitous for success, and endeavored to prepare myself for it, but soon found that I did not know how to present to the judge my side of the controversy. Mr. Stuart, instead of taking advantage of my ignorance, told me what to do, and his sympathetic manner and kind words stimulated me to further effort, for I was very much discouraged. His conduct on this occasion endeared him to me, and a friendship was formed which grew brighter with the lapse of years.

Mr. Stuart's ancestry was Scotch-Irish, and his father, the Rev. Robert Stuart, was a clergyman of the Presbyterian church. The son was born near Lexington, Kentucky, on the 10th day of November, 1807, and had, therefore, just passed his seventy-eighth birthday when he died. After pursuing his classical studies at Centre College, in his native State, and graduating at the age of nineteen, he entered the law office of that eminent jurist, Judge Breck, and remained there until he finished his legal studies. On their completion, he was licensed to practice law by the Supreme Court of Kentucky.

In October, 1828, he came to Springfield, and this city was his home while he lived. This people he loved, and if ever man was loyal to the city of his adoption, Stuart was. With every enterprise that promoted her prosperity he was identified, and at the head of many of them. By his influence and example he encouraged the people to engage in all new industries which promised a reasonable hope of success; and in the advancement of any scheme, he thought more of the public good than of private gain. I hazard nothing in saying that among the public spirited citizens of Springfield,—there are many of them,—he had no superior and few equals, and the record of his good deeds will be a precious memory to the people of this community.

Mr. Stuart at once secured a good practice in Sangamon and the adjoining counties, although he competed at the start with lawyers of note.

But very soon the bar at Springfield was unsurpassed in the State. Among those who are not now living were Logan, Lincoln, Baker, Hewitt, Forquer, Stone, Campbell, Strong and Thomas, Douglas, Hardin and Cyrus Walker, attended the Courts at Springfield, but did not live there. Many of these names will live in history, and all the persons were able lawyers.

To say the least, in the contests of the bar, Stuart held his own with them. In those early days the lawyers rode the circuit with the Judge. While at the

bar, Mr. Stuart and I attended many of the same Courts, and during most of the period of my service as a Circuit Judge, he visited regularly several of the counties in which I held the Courts. He was then in the vigor of manhood, and in full practice. My circuit, originally, embraced fourteen counties. Mr. Stuart did not, like Mr. Lincoln, travel the entire circuit, but confined his practice to the counties nearest his home, which included McLean, the place of my residence.

At that time the successful jury lawyer was in demand.

The controversies, it is true, concerned smaller things than now, but the questions were often as difficult of a solution, and as interesting, as they are at the present day. The trial by jury was invoked in every serious litigation, and both sides were anxious to engage the services of Mr. Stuart. The measure of his success was very great, and frequently he won a suit, which, in my opinion, he ought not to have won, but under legal rules there was no redress. In his general make up, he was among the best *nisi prius* lawyers in the State. Although he had not the fiery zeal of Logan, he made up for it by a persuasive address and captivating manner, which went to the heart of the average juryman, and he argued his points to the Court forcibly and clearly.

Mr. Stuart was not always equal in his efforts, but on some occasions, where the trial excited public interest, and he was hard pressed by his adversary, he rose to the height of positive eloquence. He was a student of men as well as of books, and understood better than most men I have known, the motives which influence human conduct. This knowledge enabled him to discuss the evidence to greater advantage, and to press, with effect, upon the jury the views he entertained of it. He had a happy faculty in cross-examination. If the witness was telling an untruth, or attempting even to give a false coloring to the transaction, he was sure to be detected, and during the progress of the examination the attention of the jury was secured, and their good will obtained, for the witness was treated fairly and considerately, and there was no attempt to brow-beat him.

The practice of bullying the witness, which some lawyers indulge in, is not praiseworthy, and generally irritates both Court and jury. The clearness of Stuart's statements, and the directness of his logic, always impressed the hearer, and his self-possession and equanimity of temper were remarkable.

I never knew him, in the most heated contests, lose his self-control. And he had a rare power in discussing facts, and applying the rules of law to them.

But his crowning virtue as an advocate was his honesty. He was honest with the Court and the jury. Both trusted him, and he deceived neither. The sense of sincerity with which he talked, was a tower of strength to him in jury trials. Many inferior lawyers succeed, in whom honesty is conspicuous, who would fail without it, but when this virtue is the basis of character of a lawyer who is fitted by nature and education for a *nisi prius* advocate, he is almost invincible with the jury.

Traveling the circuit in early pioneer days made good lawyers. There were no libraries at the county seats, and only a few elementary books within reach. The lawyers were usually employed after they reached the town, and tried their cases without preparation. They could not cite parallel cases, for they were not accessible. They had, therefore, to argue on principle. This they could not have done if they had not, by diligent study, mastered the rules of law, and the reasons by which they are supported.

Now a day's success seems to attend on the citation of authorities, rather than on arguments deducible from legal principles. Whether this change is for the better may be questioned.

Traveling the circuit might not now be enjoyable, it was then eminently so. It was impossible for a body of intelligent gentlemen to associate together, day by day, for six months of the year, without becoming attached to each other, and without mutual benefit. There was no generous rivalry, but it evoked no envious spirit. It was an era of good feeling, and friendships were formed which lasted for life. Court days were gala-days with the people, and were looked forward to with ever

recurring interest. Usually there were one or two important cases sufficient to stimulate the lawyers and interest the people. The incidents of each trial, when the Judge and the lawyers reach their lodging place, were talked over, and anecdotes related, and reminiscences given which would fill a volume. The weeks of Court were events of the year to the people, who generally attended whether they had business or not. The terms of Court *now* come and go, without notice by anyone who has not business in them. It was a period of social intercourse which is no longer witnessed, and an old fashioned hospitality prevailed from the beginning to the end of the Court. It is true, there were disadvantages attending this mode of life, in bad roads and poor accommodations, but they were rather enjoyed by young men of vigorous health and high hopes. There was plenty of time to allow of discussions of public affairs, and usually an afternoon was set apart for this purpose. Some of the ablest efforts made by Mr. Lincoln and Judge Douglas were on these occasions. I am free to confess, that I enjoyed traveling the circuit, while I was Judge of it, more than I did any other period of my public life.

Mr. Stuart commenced the circuit life as soon as he settled in Springfield, under that accomplished judge, Samuel D. Lockwood, and continued it until the year 1856, when he abandoned it and gave his time and attention chiefly to Chancery practice in the Courts at Springfield, in which he achieved great success. This change surprised me, for I did not suppose his tastes ran in that direction. Mr. Stuart, unlike Judge Logan, pursued his profession diligently to the end of his life. On this point, when addressing the Sangamon Bar, on the occasion of Judge Logan's death, he said: "Judge Logan, nearly twenty years since, having then acquired wealth, retired from practice to a life of dignified leisure. I think in this he made a mistake. A man of his ability best discharges his obligations to the community, and best consults his own happiness, by continuing to labor in his profession or business as long as he has the ability." And I think this is the prevailing opinion with the profession. The public career of Mr. Stuart began in 1832, at which time he was returned to the lower House of the Legislature from Sangamon County. He had so grown in the confidence and attachment of the people, that there was a pressing demand for his services, although he had only attained the age of twenty-five years. At this time there were men of mark in every Legislature. The ablest lawyers could afford to seek public places, as their professional labors did not interfere with the discharge of their duties at Vandalia. Now it is different, but if the lawyers gain, the public suffers. Mr. Stuart soon took high rank with his associates, and challenged their esteem and admiration.

The names of some of these associates will be recognized by all who are familiar with the history of Illinois: James Semple, Cyrus Edwards, Stinson H. Anderson, Peter Cartwright, Robert Blackwell, John Dougherty, Samuel Hacketon, Gurdon S. Hubbard, A. M. Jenkins, Murry McConnell, Benjamin Mills, William A. Minshall, Edmund D. Taylor and John D. Whiteside. Of this number, Mr. Taylor, who represented Sangamon, and Mr. Hubbard who represented Vermilion, are the sole survivors. It is in strange contrast to the present size of Legislative Districts, that Mr. Mills, who lived in Galena, represented all Northern Illinois, from Peoria north, including Cook County. It is said that he was the brightest lawyer and finest orator in the Legislature. Judge Lockwood once told me, next to Mr. Clay, he was the most eloquent man west of the mountains. His brilliant but unsuccessful canvass for Congress in 1834, was on the lips of all men when I came to the State. The most prominent measure before this Legislature was the trial of Judge Smith, by the Senate, on articles of impeachment preferred by the House. It is usual, in such cases, for the House to place its ablest members on the board of managers, and it was not neglected on this occasion. Mills, Minshall, McConnell, Stuart, Dougherty, Murphy and Anderson were charged with the duty of prosecuting this impeachment. The trial, in the nature of things, excited marked interest, was ably conducted, and resulted in Judge Smith's acquittal. Stuart on this occasion won reputation second only to that of Mills. His practical wisdom was soon made manifest in shaping legislation, and accomplishing his purposes. This was doubtless owing, in a great measure, to a faculty given to few men, which he possessed in an eminent degree, of getting others to adopt his views, and do the things he wanted done, without being conscious that they were acting on his suggestions, and helping him to carry out his plans. To the succeeding Legislature of 1834-5,

of which Mr. Stuart was a member, Mr. Lincoln was also returned from Sangamon county. Jesse K. Dubois, Orlando B. Ficklin, Newton Cloud, Charles Dunn, Uri Manley and Jesse B. Thomas, gentlemen well known to every person conversant with Illinois politics, first appeared in the public councils.

It is difficult for the present generation to realize that the construction of the Illinois and Michigan Canal was the first great step in the growth of Chicago, but the pioneer statesman in this Legislature, fully appreciated the importance of the work. To build the canal, with State aid, was an arduous undertaking. Without it the task was hopeless. To persuade a purely agricultural people, who had little money themselves, to vote a large sum for this purpose, requiring ability of a high order, organizing power and a rare skill of persuading men to do what you wish they should do. Stuart possessed these qualities, and was the ardent friend of beginning the canal at once by State aid. A bill appropriating money for the purpose was passed, and this policy was pursued until the canal was finished. Without detracting from the merits of the eminent gentlemen who co-operated with Mr. Stuart, I think it will be conceded that without his assistance the appropriation would have been lost. It is a melancholy truth, that services like these are likely to be forgotten by those who receive benefit from them, but an eminent citizen of Chicago, (Judge Goodrich,) fully recognizes the debt of gratitude which Chicago owes to Mr. Stuart for his services at that time. In a communication to the Chicago Tribune, lamenting Mr. Stuart's death, he tells the story of the canal measure of 1835-6, and Mr. Stuart's connection with it, and concludes in these words: "I do not believe there was any other man in the State who could have successfully overcome the combined and opposing obstacles arrayed against the measure." The part which Stuart took in shaping Lincoln's destiny, is not generally known outside of the circle of their immediate friends. They lodged at the same house, and occupied the same bed during the session of the Legislature. Both were Whigs in politics, and trusted friends, and each estimated aright the abilities of the other. Both were honest men with deep convictions, and appreciated by their fellow members. The one was liberally educated and a lawyer; the other uneducated, and engaged in the humble occupation of a land surveyor. Stuart saw at once that there must be a change of occupation to give Lincoln a fair start in life, and that the study and practice of the law were necessary to stimulate his ambition, and develop his faculties. When the subject was introduced, it appeared that Lincoln had never entertained the idea of becoming a lawyer, and stated difficulties which he deemed insurmountable. These Stuart overcame, and Lincoln agreed to give the matter a thoughtful consideration. The result was that he yielded to Stuart's solicitations, and read law at his country home some distance from Springfield, under the directions of Stuart, and with books loaned by him for the purpose. On Lincoln's admission to the bar, Stuart formed a partnership with him, which continued, I think, until Stuart went to Congress. Every lawyer, and indeed every thoughtful and intelligent person, can readily see the influence which the choice of the legal profession had on Lincoln's life.

Stuart entered the Legislature in 1832, with only a local reputation; he left it in 1835, with a State reputation, and the conceded leadership of the Whig party. In 1836, by common consent, he made the race for Congress, but was defeated by Colonel May, his Democratic competitor. Fifty years ago personal attacks on the character of candidates for public favor were more common than now, and every one will coneoede that the change is beneficial. I was at Peoria during this canvass, and recall an interview at which I was present, between the celebrated Colonel Strode and Mr. Stuart. Strode was then living at Galena, but had formerly lived in Springfield. Strode and Stuart were personal friends, but differed at that time on politics. Strode said: "Stuart, as a friend, I advise you not to deny any charge made against you." Stuart replied: "My principles are proper subjects for criticism, but my honor and good name I will defend at all hazards." Strode rejoined: "This is good talk, but unwise, and I will prove it by my own experience. You know, Stuart, I was a candidate for the Legislature in Sangamon county, some years since, and some fellows accused me of stealing hogs. I denied the charge indignantly, and would you believe it, the rascals turned on me, and proved it. Deny nothing, Stuart; if you do not notice the charge it will die out."

In 1838, Mr. Stuart was successful in obtaining a seat in Congress, defeating Judge Douglas by a few votes, after a remarkable contest. No canvass, in my time, awakened such interest, at the start, and retained it to the end. It seemed, in my neighborhood at least, as if every man, woman and twelve year old child, were enlisted for the fight. Nothing but politics were subjects of conversation, and everybody attended political meetings. Newspapers were started in small towns, and the best talents procured to edit them. And there was no difficulty of procuring money to diffuse information among the voters. The methods by which ballots are "counted in or counted out," had not then been discovered. It was a square fight for supremacy, and everybody believed in the rule of the majority when honestly obtained. And the contest was distinguished for another thing. The people were good-natured, and angry discussions were not tolerated. And the termination of contest did not seem to leave the bitterness which usually attends one of that character. The campaign was an arduous one, and no one of the present generation can appreciate its hardships. Many of the roads across the prairies were mere bridle paths. There were few bridges, and the hotel accommodations not luxurious. The contest was memorable for the size of the district, the ability of the candidates, and the closeness of the vote. The district covered all the State north and west of Springfield, and embraced twenty-two counties, including Sangamon, Adams, JoDaviess and Cook. In those days it was the custom for the competitors for public favor, to address the people from the same stump. In this way the people were better instructed than by the mode now in use. Then they heard both sides, now they hear but one. Then, both parties attended the same meetings, now each side hears its own orators, and reads its own newspapers. One or more speeches were made in every important town in the district. The traveling was on horse-back, and my recollection is, that Stuart and Douglas were five months in the saddle. It is difficult to assign an adequate cause for the enthusiasm of the campaign. A great deal of it was, doubtless, owing to the character of the candidates. Both of them were not only able men, but had the entire confidence of their party friends. And each was able to keep the other from unsettling belief, and both had that sort of magnetic power which enabled them to attract their hearers at the outset, and retain their attention throughout the discussion. But after all, the state of the country had more to do with the enthusiasm of the people than the candidates who fought the battle.

The country was divided into two parties, Democratic and Whig. The former had ruled the Nation and this State for many years; the latter was constantly disputing the right of the former to retain this power, and had made a gallant fight to this end, in 1836.

The leaders of the Whig party in 1838, believed the country could be carried in 1840, as was done, and imparted this belief to their followers, and in this way stimulated their activity and zeal. And the Democrats pursued the same course, so that when Stuart and Douglas commenced their campaign, the earnest state of feeling which characterized it throughout, had been already created. There, was also, in the district itself, a condition of things which aroused the activity of parties.

The State was divided into three Congressional Districts, and the incumbents were and had been Democrats. Naturally, the Whigs wished representation, and the Democrats were anxious to retain all their members. There was a chance to gain the Northern District on account of the great influx of population which was supposed to be chiefly of Whig antecedents, and there was no chance for Whig ascendancy in either of the other districts. This state of case added fuel to the flame, and with a national importance attached to the election, made the contest the most memorable one in the history of the State. The canvass closed at Bloomington, on Saturday preceding the first Monday in August, which was the day of the election. Douglas was present, but Stuart was absent. On Friday they had a joint discussion at Peoria, and Stuart went home from this meeting, sick. He wrote, to this effect, to the friends at Bloomington, who told the large audience which had assembled at the court house the cause of his absence. An episode occurred during the address of Douglas, which, I think, affected the result of the election, and at my rate is a part of the history of the campaign.

It was part of the tactics of Judge Douglas to accuse his adversary of favoring a measure which was unpopular in certain localities, whether he knew this to be true or not. In this way he put him on the defensive. These tactics were employed on this occasion. I took the liberty of denying the charge, because I had heard it made by him, and denied by Stuart at Dixon. Douglas said I was mistaken. Being satisfied that I was not, I promised, if human effort could do it, to have an authorized denial of the charge in every precinct of McLean County at the opening of the polls on Monday morning. Through the instrumentality of friends, I was enabled to fulfill this promise. Stuart received a majority of over two hundred votes in the county. In the same territory, two years before, as I recollect, Mr. Van Buren had only four votes more than General Harrison. The unusual contest in this district attracted the attention of the country, and Mr. Stuart received an ovation from his fellow Whigs when he arrived at Washington to take his seat. At this time he served four years in Congress, having obtained an easy victory in 1840, over Judge James H. Ralston, of Quincy. Contrary to expectation, Mr. Stuart did not engage frequently in congressional debates. This was due, in some measure, to want of time for preparation. At that day a western member of Congress was obliged, by the force of public opinion, to transact the private business, as well as the public, which a constituent had at Washington. And when we consider that nearly, if not quite, half the population of Illinois resided in the Northern district, the nature and extent of the obligation can readily be seen. And the duty thus imposed was discharged cheerfully by Mr. Stuart, to Whig and Democrat alike. If he had been an ambitious man, which he was not, and less conscientious, he would, to the neglect of his constituents, have discussed public affairs more, for he had rare ability to do so. During the whole term of his service, he was a careful and laborious member, a watchful guardian of western interests, and a faithful public servant. He left Congress on the 4th of March, 1843, having declined to run again, with the good will of his fellow members and to the regret of the people of Illinois.

It may not be out of place to state that John J. Hardin, Edward D. Baker and Abraham Lincoln, in the order named, were his immediate successors in Congress. Was any district ever so fortunate?

From 1843 to the day of his death, Mr. Stuart devoted, with exceptions to be hereafter noted, his time and energies to the practice of the law.

October 1st, 1842, the firm of Stuart & Edwards was formed. In 1860, Christopher C. Brown, the son-in-law of Mr. Stuart, was added to it, and the firm name was changed to Stuart, Edwards & Brown. This firm was dissolved by Mr. Stuart's death. It was always of high repute and successful, and lasted longer, I think, than any association of lawyers in the State.

From 1848 to 1852, Mr. Stuart was a member of the State Senate. This service was contrary to his wishes, but he did not feel authorized to disregard the pressing solicitations of personal friends and others. It was fortunate to the State that he consented to serve, for his wise counsels were needed in measures of importance, which came before the Legislature before his term ended. The session of 1849-50 was the first session after the adoption of the Constitution of 1848. Careful legislation was required to put this Constitution in proper working order. Mr. Stuart took an active part in accomplishing this object, and was otherwise efficient in the legislation of this period.

The session of 1851-52 was of transcendent importance to the people of this State. Congress had recently made a grant of land to the State, to aid in the construction of a railroad. The grant was of immense value, but the problem was how to dispose of it. It was conceded, on all hands, that the State ought not to build the road, and that a private corporation should be organized for that purpose. But on what terms? For a franchise of such value and a grant of such extent, all agreed a fair compensation should be made, but the question recurred in what manner should it be made, and the extent of it. These questions (and the State debt) engrossed nearly the whole attention of the Legislature. After a long struggle, they were settled to the satisfaction of everybody, and the bill for the charter of the Illinois Central Railroad Company was passed. In all the proceedings relating to this measure, Stuart was active and watchful of the interests of

the State, and he was the author, if my memory serves me, of the tax provision in the bill, which was the vital question at issue. The value of this provision time has already demonstrated, and coming years will furnish further proof of the wisdom of this Legislature. This act of Stuart's public career, of itself, places him in the category of statesmen, and endears his memory to the people of Illinois. And those who co-operated with him should be held in grateful remembrance. I recall the names of Judd, Plato, Matteson, Witt, Cloud, Gillespie, Reddick, Gridley, who have all preceded Stuart to the grave.

During the life of the Whig party, Stuart was devoted to its fortunes equally with Lincoln. Their political friendship seemed to be as close and enduring as their personal friendship. The former was, however, broken on the formation of the Republican party, while the latter continued unbroken as long as Lincoln lived. And there was no sincerer mourner at his grave than Stuart. The beautiful monument erected in yonder cemetery to the memory of Lincoln, is a silent witness to the unceasing labors of Stuart, who co-operated with other distinguished citizens of Illinois in its construction. The men loved one another, and their political separation was the source of sorrow and grief to both. But it had to occur, as both were conscientious men of deep convictions and great integrity of character, but could not think alike on public questions. Both were patriots, and loved the whole country.

In the formation of the Republican party, Stuart thought he saw a standing menace to the peace and quiet of the country. Lincoln, on the contrary, believed in the great mission of that party, and gave his life for that belief. In the contest of 1860, Stuart supported John Bell for President; after that he acted with the Democratic party, but as I understand, never considered himself a member of it. During the war, he did not approve the measures of the administration, and seemed to loose all hope, but his love of country did not diminish. In a letter to Governor Campbell, of Tennessee, a union man, of date 14th February, 1863, he says: "I am for maintaining the union without conditions, and at all hazards, and for preserving the integrity of our entire territory under the constitution, as our fathers made it." Again he says: "If we cease fighting in the present condition of the contest, it would be virtually a dissolution of the Union." This result, which he feared, he dreaded above all things. He deplored the war "as a mistake and crime on the part of the South." "The battle," in his opinion, "should have been fought at the ballot box, under the Union and Constitution." The whole letter breathes a spirit of fervent patriotism, but it is very despondent.

Mr. Stuart re-entered Congress in 1862, defeating Leonard Swett, the Republican candidate. He did not take this step because he had any greater love than formerly for politics, but in the hope, as he tells Campbell, that he might "be instrumental in restoring the country to union, peace and prosperity."

In 1864 he was defeated for Congress by Governor Cullom. After this, he held but one public position, State House Commissioner, the duties of which, it is needless to say, he discharged with fidelity. This appointment was a fitting tribute to a man who had rendered efficient service in procuring the location of the seat of government at Springfield.

The title of "Major" was bestowed on Mr. Stuart, for services in the Black Hawk war, in that capacity, as the title of "Captain" was given to Mr. Lincoln, because he held that rank in the same war. Mr. Lincoln was usually addressed a "Captain," when I came to the State, but this mode of address was soon dropped. On the contrary the title of "Major" adhered to Mr. Stuart during his life.

After half a century of unbroken friendship, this death touches me deeply as a personal affliction. A kind providence extended his life beyond the limit of the psalmist, and his many years were filled with instructive example. It was my privilege to know him in the walks of a profession which he cherished and honored, and it was my pleasure to enjoy the private intimacy where his social attractions delighted a large circle of admiring friends. The temptation of public honors did not seduce him from the paths in which he was content to walk, as a citizen who discharged all his obligations uprightly, and as a lawyer who was faithful to every trust. He cast ambition aside the better to fulfill them.

Mr. Stuart was not a churchman, but he was a christian in the true sense, whose faith was firm in the belief that the blood of our Savior was shed for the redemption of mankind. He lived up to this conviction, in the purity of an unstained career, in good works to his fellowmen, and in conscientious devotion to duty, in whatever form it assumed. The people who knew him best, loved him most. The monument, of all others, he would have sought, is erected in the affections of the community which directly mourns his loss.

The knowledge of these virtues gives consolation to the living in presence of this great bereavement, and especially to those of us who traveled with the departed over the road of a long life, the trials of which were always sweetened by his cheerful companionship.

When our time comes to follow him, as in the order of nature it soon must do, may the epitaph be inscribed on our tombs, as it will be deservedly engraven on his: "Well done good and faithful servant."

## MEMORIAL ADDRESS.

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### THE LIFE AND SERVICES OF HON. JOSEPH GILLESPIE.

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BY JOHN M. PALMER.

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READ BEFORE THE ILLINOIS STATE BAR ASSOCIATION, AT ITS ANNUAL MEETING,  
HELD AT SPRINGFIELD, JANUARY 12TH AND 13TH, 1886.

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*Mr. President and Gentlemen of the Bar Association:*

The task of preparing an address commemorative of the life, character and services of our late distinguished brother, Judge Joseph Gillespie, is a pleasant one, though not unmixed with sadness.

I remember him as one of my earliest acquaintances. He was for more than forty years my friend; I mourn his death as I do that of other early friends who have gone before me, and I mourn that their numbers grow less, as time in its accelerated flight brings me nearer to the end of my own journey.

I met and formed the acquaintance of Mr. Gillespie when I was a boy, as distant as that period now seems to be from the present. He was then probably some twenty-three years of age, and was an admirable specimen of rugged physical manhood.

He had not then, as I believe, even entered upon the study of the profession in which he afterwards became so successful, but was known to possess steadiness, industry, and the most rigid and uncompromising integrity,—qualities which attended him through life, and which were indeed the basis of his character and the foundation of his success.

I have said these qualities, steadiness, industry and integrity were the basal qualities of his character, and that they were the foundation of his success; and perhaps they were his inheritance from his ancestors, who, aside from these valuable qualities, and a good name, which is "rather to be chosen than great riches," left him nothing.

He was the son of David Gillespie and Sarah, his wife, who migrated to New York City in the year 1807, where he was born in 1809.

It was his claim that the Gillespies from whom he traced his descent were of the "Clan Campbell," and emigrated from Scotland to Ireland in the middle of the seventeenth century, and settled in county Antrim.

There were three brothers of this family, all of whom were "Presbyterian true blue," and welcomed the Prince of Orange to Ireland, and one of them took part in the "Battle of the Boyne" on the 12th day of July, 1690, and crossed that river, famous in story and in song, under the banner of the conqueror.

It is a pleasant tradition in the family that this hero, as they fondly regard him, wore the sword which he had carried at "the Boyne" for the remainder of his days; and it is even now in the possession of the Orange Lodge of Ballybay, county Monaghan, where the veteran ended his life, near the close of the century.

Without further reference to the possible influence of heredity upon the character of Judge Gillespie, there is no doubt but that he possessed, in a large measure, some of the qualities that even enemies concede to the race from which he descended.

The parents of Mr. Gillespie removed to Illinois in the year 1819, bringing with them their small family, and settled near Edwardsville, in Madison county, where they closed their useful lives, and where he made his home until his life's work was done.

In order to understand the influences which afterwards gave direction to and moulded the life and character of this lad, who was ten years of age when he was brought by his parents to Illinois, it is necessary to describe the Illinois of 1819, and later years, while he was being prepared for success in the busy life in which he afterwards took such a conspicuous part.

In 1818 the State of Illinois was admitted into the Union with a population which was less than the present population of Sangamon county. It is written by the Rev. John M. Peck, one of the early annalists of the State, that "Madison, Bond and Crawford counties were the three northern counties across the State. All north was wilderness and one-half was supposed to be uninhabitable. Congress had granted a 'charter' to Illinois Territory to organize a State government with forty thousand. Marshals were appointed in all the counties to take the census. As the period of their labors drew nigh, it became doubtful whether the requisite number could be obtained. The public roads across the State were watched, and families were found that were said to have been missed, and after every effort had been made to make up the number, it was officially proclaimed that the requisite number, with some two or three hundred surplus, had been found."

It will be more significant to most of those who hear me to be told, that as late as 1822, four years after the State had been admitted to the Union, and the Legislature had created other counties, Chicago—which now has a population which no loyal resident of the city ever ventures to fix, until he learns the number required to keep ahead of other cities—was described by Dr. Beck, as "a small village on lake Michigan, at the mouth of Calamick Creek in Pike County, Illinois."

Kaskaskia, much of the site of which is now the bed of the Mississippi river, and Edwardsville, Shawneetown, and other villages of a few hundred inhabitants, were the centers of the wealth and culture of the new State. In 1820, when Vandalia was selected as the seat of government of the State, it was north of the center of population; and in 1832, a gentlemen of professional as well as political eminence, expressed the opinion that it would be the substantial center for fifty years. It has been said, jokingly no doubt, as a compliment to the knowledge of the pioneers of pre-historic remains, that Vandalia was so named, because the region thereabouts once was the home and hunting grounds of a powerful tribe o' Indians called "The Vandals."

But what is of more importance to my present purpose, I may state as a matter of fact, that the State was then without any means of public education whatever. Public schools, as they now exist, were unknown in Illinois until a comparatively late period.

Congress, with provident forethought, had given land to the State for educational purposes, but it was unsold, so that no fund had then been realized. The teachers who were employed by individuals to instruct their children, were generally modest in their claims to scholarship; and the "articles," as the paper to which the signatures of the "subscribers" were attached was called, contained no promise of instruction beyond "reading, writing and the ground rules of arithmetic."

In such schools as I have described, and with such aids as he could command from other and better sources, Mr. Gillespie acquired his literary education; but there was open before him another school, where the foundation of what I venture to think a more useful and invigorating education was attainable—the home of his patient, frugal, industrious and self-denying father and mother. They had undoubtedly

brought with them from their native land and city residence, ideas of comfort and refinement somewhat in advance of those possessed by the gallant and adventurous pioneer population which preceded them into the State; but they, like all other emigrants of that day, were compelled to engage in the rugged labor of making homes, enclosing farms, and providing the means of support.

It was written by James Hall, who was an early resident and State officer of Illinois, that the early settlers of Illinois were an educated people; and in proof of what he knew would be questioned by his readers, he said: "The pioneer with his axe and auger, and a few other simple tools known to wood-craft, will prepare the materials and build his dwelling house—with the same tools he will supply himself with simple, useful furniture. He will enclose the prairie farm, or remove the forest which stands in the way of the cultivation of the earth. He will rear domestic animals, some of them he will train for labor under saddles, or in harness attached to carriages, all improvised by himself; others he will prepare for food which challenges the taste of the epicure; while his wife and daughters, with their deft fingers, will prepare the cloth and fashion raiment for the whole family."

This picture may owe something to the coloring of the artist, but its ground work is truth; and some of us look back over the somewhat lengthened road we have traveled, and, in imagination, see ourselves boys again, playing our parts as scholars in this humble school of pioneer life.

Ah, Mr. President, when you and I lie upon our last beds, with the Messenger waiting for us, we will "babble" of the little log house in the edge of the green woods and the grass covered prairie with its wavelike undulations, dotted here and there with groops of timid deer stretching away from us into the dim distance.

These schools did not teach letters; nor was a knowledge of the arts and methods of pioneer life alone a liberal education, but such knowledge was a foundation for, I will not say a higher, but, a gentler culture.

Judge Gillespie passed through the whole *curriculum* of pioneer scholarship; and it may be added, that in his subsequent professional career, he had the advantage of the practical knowledge acquired by him in the pursuits of pioneer life.

After he attained his majority, like most of the enterprising young men of that day, he made a trip to the Lead Mines, on what the "Suckers," in their own vernacular, called "Fever River."

I have heard him speak of his labors on "Fever River" and upon "Small Pox Creek," for which I hope modern culture has found a happier name. He returned to Madison county afterwards with some of the silver dollars, of which the Lead Mines were then almost the only known source of supply in Illinois, and in 1834 he was a law student in the office of the Hon. Cyrus Edwards. I do not know when he entered the office of Mr. Edwards, but I saw him there in 1834, and in 1837 he was enrolled as an attorney at law of the State of Illinois.

I have heard, and I believe it to be true, that the advice of Mr. Edwards had much influence in causing Judge Gillespie to enter upon the study of the law. I know from conversations with Mr. Edwards many years later, that before the commencement of his relations to Mr. Gillespie as his preceptor, he entertained a high opinion of his capacity, and the most confident expectations of his future success; and I have no doubt that Mr. Gillespie derived great advantages from his association with Mr. Edwards.

I, too, confess assistance from the same hand; and as he had much influence in forming the professional and social character of our deceased brother, I will not deny myself the pleasure to paying a feeble tribute to the memory of one of the most accomplished and amiable of men.

Mr. Edwards was a scholar of extensive and profound culture. He was an orator—not the most forcible, I think—but singularly graceful and instructive. His kindness to young men was a feature of his character. By his gentleness and candor he won confidence; and his experience and wisdom made him an invaluable counselor.

He had the highest place in the love and respect of Mr. Gillespie, who always confessed his obligations to Mr. Edwards, for his assistance and his example.

With his studies in the office of Mr. Edwards, and one term in the Law School at Lexington, Kentucky, Mr. Gillespie completed his legal education.

In 1835 he was Probate Judge of Madison County. I do not know how long he held that office, but when he came to the Bar he was popular with the people, and took his place along side of the able men who practiced "on the Circuit."

I am quite sure that for a number of years after his admission to the Bar, Mr. Gillespie's ambition was in the line of his profession, and ultimately towards a judicial place; but in 1840, the State of Illinois, and indeed the whole Union, was stirred and shaken by a political tempest without example in the history of the country.

It seems to me now, for I had but the year before become a voter, that after the nomination of General Harrison for the presidency, every man, woman and child who could speak plainly enough to be understood, became a vociferous screaming partisan.

Business of all kinds was practically abandoned. The supporters of Harrison and Tyler seemed to "put in" their whole time in holding large meetings, building log cabins, marching in long processions, drinking hard cider, and in, what seemed to me at the time, the most execrable singing.

Macaulay describes the effect of the singing of "Lillibullero" upon the fortunes of the Stuarts, and some historian, with a comic vein, will tell hereafter how Van Buren was driven from the presidency by means quite as ludicrous and effective.

We poor "Loco-focos," as we were then elegantly called, "couldn't sing," but we "took it out" in the free use of language, which might, under more favorable circumstances, have been considered as somewhat like praying.

Mr. Gillespie was, as I now think, swept into this vortex against his will, for he was an ardent "Clay man," and I think resented the defeat of his favorite by the national convention of his party; but be that as it may, he came into the contest with the utmost zeal and energy. As characteristic of the temper of the canvass, I remember that the Whigs had determined upon a great mass meeting to be held in the city, about the 3d of June, 1840.

Early in the morning of the day before the meeting was to be held, Judge Douglas and I left this city for Carlinville. After crossing Sugar Creek, we met the head of the column of advancing Whigs. In the lead was an immense team of some eight yoke of oxen attached to a wagon upon which was a canoe forty feet long. Other teams, drawing log cabins ornamented with living coons, coon skins and gourds and other "backwoods" articles, were met; and near where the prosperous city of Girard now is, we met "Jo Gillespie," as we then called him.

As soon as he saw Douglas and myself, he proposed three cheers for "Tippecanoe and Tyler too," which were given and taken up by the column; and then he called for three groans for Douglas and Palmer.

This call met with a prompt response, and the groans were taken up by the column, and, it seemed to me, for miles across the open prairie this wave of groans followed the wave of cheers in both directions, until it appeared as if it would never cease.

Mr. Gillespie was elected to the House of Representatives at the election held in August, 1840, and took his seat at the session which commenced on the first Monday of December following. He was elected State Senator in 1846, and again in 1850.

In 1861 he was elected Circuit Judge, and served in that station for two terms. In 1873 he failed of re-election, and then, as I understand the facts, he finally abandoned public pursuits.

His legal education was such as the times allowed. Books were scarce; Coke on Littleton, Blackstone's Commentaries, Starkie, McNally, and Peake on Evidence, Chitty on Pleadings, with a few other books like Buller's *Nisi Prius*, constituted a fair Law Library.

The younger members of the profession have but to be reminded that Kent and Greenleaf were then names unknown to the profession in the west.

Breese collected and published the decision of the Supreme Court of Illinois in 1831. Scammon's first volume appeared in 1841. In the meantime a small volume of the decision of the Supreme Court, compiled by Forman, and bound in paper, had appeared.

Michigan, California, Wisconsin, Iowa and Texas had then done nothing to contribute to the mass of reports. Indeed, all the legal works most usually studied or consulted now, have been published since the date of Mr. Gillespie's admission to the Bar; and the books in use then, or nearly all of them, are superseded by others, and the technical learning which they taught is now obsolete and forgotten.

For example, who of the gentlemen who now listen to me ever knew "John Doe" and "Richard Roe," "those persistent and ubiquitous litigants," who were parties to nearly every *Ejectment* suit commenced in England or America for a hundred years?

The books to which I refer told us of "Doe" and "Roe," of John Den and Richard Fen, who were always ready to become "Doe's" pledges to prosecute, and of "Smith" and "Stiles," who were equally willing to be responsible for his adversary.

Judge Gillespie knew them well, and I knew them all slightly myself; but the Legislature of 1839 laid them at rest forever.

The science of special pleading was then studied as one of the most useful branches of the law.

Our brother always entertained the view so forcibly and clearly expressed by the great American Commentator—"I entertain a decided opinion that the established principles of pleading, which compose what is called science, are rational, concise, luminous and admirably adapted to the investigation of truth, and consequently to be carefully touched by the hand of innovation."—Mr. Gillespie was a master of this science.

He outlived the system of special pleading, and while he no doubt desired its improvement, he regretted its overthrow. He, however, knew that it was not destroyed by those who understood it; and he must have felt something like contempt for the "easy lessons for beginners" which have taken its place.

As a judge he was laborious, accurate, prompt, just and impartial; but for a reason which may appear to the members of this Association as whimsical, it always seemed to me, when before him, that he wanted something to constitute the ideal judge.

There is a saying that "a good lawyer rarely makes a good judge." By way of apology for quoting this seeming paradox, I think I know that the "trade" of a judge is altogether different from "the trade" of a lawyer.

It is not necessary to point out the differences to this audience, but I feel at liberty to say, that I do not now remember an instance in which an eager, astute, combative trial lawyer, whom the voice of the Clerk, calling the jury, thrilled as the "trumpet does the war horse," who reached the bench, that something of his old habits did not cling to him.

I once told an old lawyer whom I loved from similarity of tastes, if for no other reason, that Judge Buller said his idea of happiness in heaven was to be allowed "to sit at Nisi Prius all day and play whist all night"—to which my friend replied, "and my idea of heaven would be, to be in Buller's court all day as counsel for the defendant in a close case, where half the witnesses on both sides were liars, and spend the night in looking up the law, and talking to my witnesses."

Such a man as this could never be a satisfactory judge.

Perhaps an incident in my own experience will illustrate with more clearness what I mean.

I once held a modest judicial place, and in 1848, aspired to another. I mentioned my wishes to a distinguished lawyer, long since dead, who knew me well, and upon whose friendly assistance I confidentially relied. He said: "I won't support you." Astonished, I asked him why. He said, "you don't know enough to be a judge." Half angry I said: "What do you mean." He replied, "you don't know enough to know that it is none of your business, in a lawsuit tried before you, which side wins."

I felt the justice of the "observation," and am satisfied that I never could have acquired the degree of judicial indifference which Mr. Smith thought requisite in a judge.

In political life, Mr. Gillespie was by nature conservative, though I am not sure that the word "conservative" expresses the exact idea which I intend to convey. He was devoted to the existing order of things.

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He distrusted all radical political changes, and was always inclined to those constructions of the federal constitution which conceded the largest power to the government of the United States.

Although a native of the United States, he sympathized with what I now term the factional strifes which divide his race in all lands where Irishmen are found; and like all men who study and admire old systems of government, he did not, I think, accurately comprehend our own.

While his legal acumen was penetrating, and but few men better understood the nice distinctions observed by the courts in the definition of personal rights, he never quite succeeded in employing them accurately in the definition of political rights.

More than most public men, he was attached to the now fashionable doctrine of the supremacy of the judicial department of the government.

Our profession has, in all ages, been ready to oppose the aggressions of all other powers than the courts, and is in a great measure responsible for the prevailing superstition that "the courts can do no wrong."

Our esteemed brother might not have assented to this doctrine, thus bluntly stated, but he no doubt held to the belief that the constitution of the United States is whatever the Supreme Court decides it to be, and he regarded the proposition to make the judges of that court elective by the people as but a little short of sacrilege.

I have not time to refer at length to the services of Mr. Gillespie in the State Legislature. He was attentive to his duties, and was always a leader. He was devoted to the development of the resources of the State; and the State is largely indebted to him for the arrangement by which the construction of the Illinois Central railroad was attained, which redeemed the central portion of the State, and secured the large fund which is now annually paid into the treasury.

It is difficult, Mr. President, to make my audience comprehend the value of services like these, or to properly appreciate the sagacity which foresaw the value, and furthered the legislation which promoted the improvements that have revolutionized the business and condition of the State of Illinois. The present generation sees them as they are now,—it can hardly conceive of a time when they did not exist.

To do justice to men like Mr. Gillespie, we must be able to imagine a time in Illinois such as I have heretofore described,—when its population was small, when the whole State was a single congressional district, or as it was in 1837, but three, Sangamon and Cook being parts of the same district; when railroads were unknown; when telegraphs had never been dreamed of; before reapers and mowers were invented, indeed before cooking stoves were thought of.

Then we can realize the superiority of the public men who could foresee and facilitate by legislation, the great results which we are allowed to witness.

I have now done imperfect justice to the memory of our deceased friend and brother. It is only necessary to say that he was an obedient son; and was a kind and affectionate husband; a tender father; a neighbor and a friend true to all his duties. He was married in June, 1841, to Miss Mary E. Smith, of Greenville, Illinois, who, with five children, survives him.

His private life was blameless, and as a citizen he was conscientious in the exercise of the privileges which citizenship conferred. He died on the 7th of January, 1885, surrounded by his sorrowing family, and he sleeps in the humble cemetery at Edwardsville, in sight of the spot where he had lived for more than *three score years*.

## MEMORIAL ADDRESS.

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### LIFE AND SERVICES OF T. LYLE DICKEY.

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BY HON. JAMES S. EWING.

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READ BEFORE THE ILLINOIS STATE BAR ASSOCIATION, AT ITS ANNUAL MEETING,  
HELD AT SPRINGFIELD, JANUARY 12TH AND 13TH, 1886.

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*Mr. President and Gentlemen of the Bar Association:*

Before the writer of this sketch was born the subject of it was admitted to practice law in the supreme court and circuit of Illinois, and but a few weeks ago, in the maturity of a ripe old age, with all his blushing honors upon him, came down from the high seat of justice and laid aside his judicial robes to stand in the presence of a greater judge. A lawyer's fame is, of all things human, the most ephemeral. A lifetime of labor, the most exhaustive research, the most constant devotion to his profession, the most excellent mental endowments and the most valuable services secure to him, at most, but a short-lived existence in the memories of men. His most brilliant forensic triumphs soon exist only in tradition. The results of his judicial labors are recorded in musty law books. Others come and go, challenging the attention of the living, and, in the swiftly succeeding scenes of active life, there is little time to think or speak of the dead.

And yet I express this seeming paradox: No man can entirely die out of the memory of men who has done anything worth remembering. All along the shining pathway of human history the generous living have erected pyramids, mausoleums and abbeys to commemorate the noble dead. The man whose life is a benefaction, who has done something good for his kind, who has impressed his character and life upon the laws of his country, and who leaves the radiance of his own life to illumine the pathways of others, will live, immortal, in that land which men call fame.

It has not been deemed proper that this occasion should pass without some mention of the great lawyer, the just judge, the sincere friend and the honored citizen. If characteristics, mental and moral, are hereditable, he was fortunate in his birth. The most valuable migration to this country was of Scotch-Irish Presbyterians to the Carolinas, thence to Virginia, to Kentucky, Tennessee, Ohio and Illinois. The men who framed the Mecklenburg Declaration of Independence left to the country stern lessons of patriotic duty and of moral qualities, surpassed by no people. Their immediate descendants have been amongst the great men of our time, filling the high places in the army, the State, at the bar, on the bench and in all the avenues of business. Of such were many of the contemporaries of Judge Dickey — Cyrus Walker, Joseph Gillespie, Stephen T. Logan, Pinckney C. Walker and

John T. Stuart. His father was the Rev. James H. Dickey, a Presbyterian minister, who was himself a man widely and favorably known in central Illinois for superior abilities and worth. He was a man of great learning and sincere piety, commanding the respect and love of all who knew him—a kind of missionary bishop with the faith of John Calvin and the loving kindness of Francis Xavier.

T. Lyle Dickey was born in Bourbon county, Kentucky. From three to twenty years of age he resided in Ohio. At that age he graduated at Miami university. His schoolboy days were not ended when he married a wife and commenced in earnest that long and successful career which brought to him the highest honors of his profession, and, what was better, the love and lasting respect of all who knew him.

For two years he was a school teacher in his native county; then at Lebanon, Ohio; then at Millersburg, Kentucky. In the winter of 1834-5 he came to McDonough county, Illinois, intending to be a farmer, but Cyrus Walker persuaded him to study law. He was admitted to the bar in 1835, and for one-half of the most brilliant century of human history took part in all the active life of his time, in all the important transactions incident to the growth and development of this great commonwealth. He tried more lawsuits than perhaps any other lawyer; he was a commander of men in two wars; for fourteen years he was on the circuit and supreme bench. How can I even sketch such a life? He practiced law in Macomb, Ill., for a year and a half; at Rushville for three years.

In 1839 he removed to Ottawa and practiced law there until 1846, when, at the breaking out of the Mexican war, he organized a company, was appointed captain, joined the First regiment of Illinois volunteers, and served under Col. John J. Hardin.

On his return from Mexico in 1848 he was elected judge of a circuit comprising twelve counties. This position he held for four years. In 1854 he removed to Chicago and practiced law four years. He was a member of the first Republican convention held in Bloomington in 1854; and afterwards, in 1856, became an independent candidate for congress against Owen Lovejoy, but early determined to withdraw from the canvass. He was a Whig, but supported Douglas in his contest with Mr. Lincoln in 1858, and afterwards for the Presidency in 1860.

In 1860 he was practicing law in Ottawa with his son-in-law, Gen. W. H. L. Wallace, and Cyrus Dickey, his son. They all went into the war. The country knows what they did. The son and son-in-law gave up their lives in battle, and their names are enrolled with illustrious heroes.

Judge Dickey raised a regiment of cavalry, joined Grant at Cairo, went with him from Fort Henry to Shiloh, and remained in the service until 1863.

For four years more he practiced law in Ottawa. In 1866 he was the Democratic candidate for Congress against Gen. Logan. In 1868 he was appointed Assistant Attorney-General of the United States, and in that capacity was in Washington for eighteen months. For three years more he practiced law in Ottawa, and again in Chicago. In 1874 he was corporation counsel for that city, and, in 1875, was elected one of the Judges of the Supreme Court, which high office he held until the 22d day of July, 1885, when, at Atlantic City, he was lulled to sleep by the murmurs of the great ocean.

This is the hard, dry, meagre outline of a life full of interest and incident—the mere abstract of a record replete with stirring adventure, with high ambition, with honorable attainments and invaluable services. The record itself must be opened and read to find his struggles with poverty, his heroism under adversities, the difficulty he met and overcame, his hopes and fears; the great sorrows, in the presence of which he stood, all of which was for the building up of that strong manly character which enabled him to impress his life upon his age and generation.

Who shall analyze this character, and what orator shall fitly speak his praise?

Perhaps he was greatest as a lawyer. He loved the conflict of trial—that sharp meeting of mind and mind. His quick perception, unerring judgment; his intuitive knowledge of human nature and of the motives which actuate men; his ready and exact knowledge of elementary principles of the law; his power as an advocate

made him the peer of any trial lawyer and usually the victor of the contest. He was a safe and judicious counselor as well, and I know of no one whose advice was better worth the asking.

If the law to him was a jealous mistress, she had no cause to complain of his infidelity, and right well she rewarded his loyal devotion. To say he was an incorruptible and just judge is but to express his just measure of praise. His opinions are found in forty volumes of the Illinois reports and are, and will be, a lasting and important portion of the legal history of this great State. It is no disparagement to the other distinguished members of that court to say that no abler and clearer expositions of the law can be found within the 112 printed volumes of opinions than those of Judge Dickey.

He was a soldier of two wars. I do not know that he was ambitious of military glory, but he was a patriotic citizen-soldier. He gave up his loved ones for the cause he loved better. He took his own life and offered it to his country. He was the embodiment of chivalric valor, and, since the plume of Navarre followed the white lillies of France into the jaws of death, no more knightly figure ever rode down a line of battle!

As he was brave, he was generous, courteous and kind. He never betrayed a cause or a friend. He spoke kindly to the poor, sympathized with distress, was generous to a fault; and his great heart throbbed in unison with the great suffering brotherhood of man. There was in him no false pride born of accidental position. He loved children, and this love made him child-like and lovable.

In early youth he plucked a rose and bound it to his bosom, and its sweet fragrance perfumed his pathway to mature manhood. His daughters were noble women, and his sons honored gentlemen.

Can I tell of his fidelity to friends, his urbane and pleasant manners, his hatred and scorn of wrong, his delicately and knightly sense of honor, his integrity of character, and of all those beautiful qualities of heart and mind which made up and rounded and beautified a character, everywhere and by all true men to be loved and admired and honored?

He lived with great men, and was not dwarfed in their presence. He was a man of thought and of action. He lived amidst the stirring scenes of a great era, and he thought out its problems and acted with its men. His life was a success, measured by all the standards of human action, and the bar, the bench and the State are his debtors. It was fitting that the requiem of such a man should be sung by the sounding seas; and that he should be lulled to his eternal rest by the sweet lullabys of murmuring waves stealing gently over the sands of the other shore.

## MEMORIAL ADDRESS.

## LIFE AND SERVICES OF PINCKNEY H. WALKER.



BY ETHAN A. SNIVELY.

READ BEFORE THE ILLINOIS STATE BAR ASSOCIATION, AT ITS ANNUAL MEETING,  
HELD AT SPRINGFIELD, JANUARY 12TH AND 13TH, 1886.

[Hon. S. P. Shope, of the Supreme Bench, had been assigned to deliver an eulogy upon the late Justice P. H. Walker, but he was called home on account of sickness in his family a few hours preceding the time of its delivery. E. A. Snively being called upon delivered the following:]

*Mr. President and Gentlemen of the Bar Association:*

"PINCKNEY H. WALKER.  
Born, June 18th, 1815. Died, February 7th, 1885."

The above is the simple inscription found upon a monument in the beautiful cemetery which lies hard by the city of Rushville, Schuyler county. To the stranger—the one unacquainted with the history of our State—it tells no more than many other slabs which are scattered over the grounds. To the members of the Illinois Bar Association, it speaks of the death of one of the ablest and purest men who ever sat upon the bench in Illinois.

At the last meeting of your Association, full of life and energy, he looked forward to yet another decade of untiring work, yet in one short month he had crossed

"That awful gulf no mortal e're repassed  
To tell what's doing on the other side."

In 1832 he commenced clerking in a store, and continued in that business for two years. In 1834 he removed to Illinois and settled in Rushville. In March, 1838, he removed to Macomb and began reading law in the office of his uncle, Hon. Cyrus Walker. He was admitted to practice in 1839, and opened an office in Macomb and in 1848 removed to Rushville. In 1853 he was elected Judge of the then Fifth Judicial Circuit, to fill a vacancy. It 1855 he was re-elected for a full term without opposition. In April, 1858, he was appointed by Gov. Bissell to fill a va-

cancy on the Supreme Bench, occasioned by the resignation of Judge O. C. Skinner, and in June following he was elected to the office for a term of nine years. He was re-elected in 1867 and 1876. His first opinion appears in volume 19, of the Illinois Reports—his last in volume 112.

He was married on the 2d day of June, 1840, and a widow and five children survive him.

The above, in brief, sums up the historical record of Judge Walker, but it is fitting that something in addition should be said. The ninety-five volumes of reports in which his opinions can be found speak more eloquently than can I of his legal ability. But with his home life—his habits, and some of his more prominent characteristics, I am well acquainted, and will chiefly refer to them. His home life was as utterly devoid of ostentation as was his intercourse with public men with whom he came in contact while attending to his judicial duties. He had no false ideas of aristocracy, but every good citizen was his peer. He moved among the people of the town where he resided as quietly and as unostentatiously as its most inconsequential citizen. He took no part in the little scisms that would agitate the community at times, and during a number of years that I resided in the same town I never heard, from any one, but the kindest expressions toward him. He was charitable to those who were really in need, but in this matter he fulfilled the scriptural injunction to let not the left hand know what the right hand doeth. He subscribed to no particular religious creed, but was a substantial, practical believer in that religion which bids one to visit the widows and fatherless in their affliction and keep himself unspotted from the world. In all the years I knew him—in all my intercourse with him as a citizen and my later official relations—I never knew him to utter an impure word. If there came times when profane or impure expressions suggested themselves to him, he had will enough to suppress them. At home his habits were the most regular. His office and library were very near his residence. He breakfasted at seven o'clock, repaired to his office and worked until eleven; he re-entered the office at one and worked until five; at eight he again entered the office and worked until twelve or one o'clock. Three times a day he walked over the two blocks that separated his residence from the business portion of the town, and spent an hour talking with his neighbors. He took a gloomy, rather than a cheerful view of questions; he never could be drawn into a political discussion, and had a supreme contempt for all gossip. His family life was a happy one, and home to him was a word whose most comprehensive definition was fully realized when he crossed the threshold of his residence.

He was not a business man. A gentleman once described an entertainment by saying it "was so poor it was real good." This fairly illustrates Judge Walker's ideas of his own business ability. He lived within his income at all times—and until the provision of the present salary for judges of the Supreme Court, it required all of his income to support his family; having no extravagant habits he was enabled, in later years, to save something, and this he invested in Government bonds, knowing they were safe and being fearful of all other securities. He owed no man a debt to be liquidated by the payment of money. Careful of his own expenses, he was doubly so in regard to the expenses of the court, which was to be paid by the people. Articles absolutely necessary for the court and conference rooms and the clerk's office, could be purchased, but there could be no favoritism shown,—they must be purchased where they could be bought the cheapest. He well knew that he was often criticised by the officers of the court and members of the bar for a failure to agree with them in some of their ideas which he thought were uselessly extravagant as to the money of the people; but no tax-payer can ever burden his memory with the charge that he was less careful of the public money than his own. It was no more his duty to honestly and impartially decide a case than to look after such financial interests as might come under his supervision. Is not his record in this regard worthy of emulation?

In the full and free acceptance of the terms, Judge Walker was a "rugged man,"—a man of plain, honest, practical common sense. His physical development was a fair index to his mental capabilities. His mind acted slowly but surely,—his comprehension was not dull, and while others might more rapidly read a

record, no one would be more conversant with its every point when once he had finished a perusal of its pages.

At the bar, he was not an eloquent advocate; he could not so readily confuse a jury with his eloquence that he would achieve a verdict without regard to the merits of the case; but he made his case so plain that, if successful, every jurymen could give a reason for his verdict. He was courteous to his opponents at the bar, enjoyed the confidence of the presiding judge, treated witnesses with due consideration and in every way exhibited that good sense—those ideas of justice and fairness which so strongly commended him to his brother attorneys as being a man in every way capable of making a most excellent judge.

His elevation to the Circuit bench was one of those semi-political accidents of which we read so much and realize so little—where the office seeks the man; and, as is invariably the case, the reward is an official of the best ability, and the highest purity of character. So able a *nisi-prius* judge was he, that, ere he had filled out the term for which he was elected, he was promoted to the highest judicial honors to be reached in the commonwealth.

Appointed to the office of Supreme Judge by a Governor who disagreed with him in his political views, was an honor seldom, even in those days, conferred upon a man. While appreciating the compliment, he also appreciated the added responsibilities. The Supreme Bench of the State had numbered among its members Trumbull, Douglas, Treat, Scates, Lockwood and others, who in their day enjoyed great reputation; he was the immediate successor of Skinner, who was recognized as one of the ablest lawyers in the West; his two Associate Justices were Caton and Breese, whose names were the synonym of profound learning.

The State was yet comparatively new. Questions not only involving what was then great sums of money, but most intricate questions of law, were pressing the attention of the court. The courts of a country can exercise a great deal of influence in its development; the enactment of liberal and just laws, and their enlightened enforcement do much to aid in the progress of a people. It would be unjust, alike to the living and the dead, perhaps, to say that Judge Walker did more than any individual judge to give to our court the high reputation it enjoys, but it is a conceded fact that to him as much as any other one man should credit be due that the Supreme Court of Illinois now takes rank with that of any other State.

Following the close of the war, came upon the country questions of legislative control of railroads and corporations, and the various collateral issues arising therefrom. Illinois has most justly achieved the distinction of being the pioneer in this class of litigation. In the proper judicial determination of the numerous issues growing out of these questions, Judge Walker took an active part, and it was a consolation to him to know that there were ample constitutional guarantees by which the rights of the humblest citizen could be justly protected from the incursions of monopoly in any form. He was a man of the people in the true sense of the word. He never, like a demagogue, "boasted of plebian origin, or pandered to the rabble"—but he ever was glad when the law could be so administered as to strengthen the weak, shelter the homeless, and throw its protecting care around those who were being wronged. As was most eloquently said by Mr. Justice Scott: "The beneficent principles his learning and ability assisted to maintain will aid in establishing right and justice in behalf of the humblest, as well as the most exalted of our race, so long as our civilization shall stand."

His idea of the relations between the Federal and State Governments, and the powers of each, are most tersly stated in the first opinion written by him, in which he said: "While the Federal Government is one of delegated powers, supreme to the extent of the powers granted, that of a State is rather to be regarded as a limitation of the legislative department, and it is competent for the Legislature to exercise all power not forbidden by the Constitution of the State, nor delegated to the General Government, nor prohibited to the State by the Constitution of the United States." A quarter of a century later, in perhaps the ablest opinion he ever wrote, he says: "In all representative governments, the sovereign or governing power belongs to and resides in the people, as the source of all power; that this power is inherent, inalienable and indestructible, without the subversion or destruction of the Government. \* \* \* To impair or diminish the sovereign or

governing power is to weaken the power to govern the people and to protect them in their rights, and to that extent defeats the purpose for which government was created and was maintained. The founders of our Government conferred powers deemed necessary to answer the purpose of its organization and to be perpetually held, unless withdrawn by the people when exercising sovereign power."

These doctrines were inherent with him, not from any political conceptions, in the modern application of the term, but because he believed they were the fundamental principles upon which the perpetuity of the Government rests.

His first and greatest ambition was to satisfy his own conscience; the second, to meet the approval of the bar. By doing the first, he accomplished the second, as was attested by his continuance on the bench.

He reviewed the arguments of Douglas, Lincoln, Browning, Logan, Skinner, Dickey, Higbee, Manning, Purple, and others of the men who have made famous the reputation of the Illinois bar, and who are now dead, and their logic and reasoning, though often overruled, were, nevertheless, themes for study and reflection.

Contrary to the belief entertained by some, he, like all the other members of the court, never complained when the justice of his opinions was criticised, and a re-hearing was asked. He, like they, preferred that any error might be corrected before it went into the Reports to control the inferior courts.

Judge Tunnecliffe, who was a student in his office, and for over thirty years his personal friend, in responding on behalf of the court at Ottawa, when the resolutions in memory of Judge Walker were presented, said: "Adorning the bench of the highest court in our State for over a quarter of a century; repeatedly its Chief Justice; passing continually upon questions of the greatest import in the law, in all its various branches, settling, by the edict of the court almost daily, property rights of the greatest magnitude; holding the scales of justice in such equipoise between great corporations of almost unlimited wealth and power on the one side, and the rights of the public to be affected by them on the other, and so adjusting their respective obligations to each other, that whilst invested capital should not be deprived of a reasonable reward for its use, yet those to be conserved thereby should not be subjected to extortion or unjust discrimination; and continually administering the rules of law by which life, liberty and property are held secure,—and doing all this so wisely and satisfactorily that no one has ever been heard to question the purity of his motives, is to justly win the highest prize for which a judge can be ambitious." When you add to this beautiful word picture, that of a man whose name among all who knew him was a synonym of honor; a neighbor ever mindful of all the rights of others, and careful to extend to each and all every possible courtesy; a citizen ever ready to aid all in poverty or distress; a father, kind and indulgent; a husband whose honey-moon never waned,—you have Pinkney H. Walker, as he was known by his fellow-townsmen, and to the bar and people of the State.

Scattered along his life's pathway are brilliant examples for the emulation of all. Few will be called upon to perform such work,—few will achieve such enviable distinction. But to all will come, as came to him, the still, small voice of the death-angel, and the chord which binds us now so firmly to life will be easily broken. And, like him, we can all—

"So live, that when the summons comes to join  
That innumerable caravan that moves  
To that mysterious realm, where each shall take  
His chamber in the halls of death,  
We go, not like the quarry-slave at night,  
Scourged to his dungeon; but sustained and soothed  
By an unfaltering trust, approach the grave  
Like one who draws the drapery of his couch  
Around him and lies down to pleasant dreams."



